

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/08 has been entered.

### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brian Cocca on 10/24/08 and 11/3/08.

### **IN THE CLAIMS:**

1. Cancel claims 11, 24, 35-37, 60-61 and 78.
2. In claim 1, line 1 after "1." Delete "(Previously Presented)" and insert---  
(Currently amended)---

3. In claim 1, line 3, after "of", delete "between about". Also in claim 1, line 4, after 2%, delete "and about", and insert "---to---". Next, in claim 1, line 4, after "from" delete about and after "to" delete "about".

For clarity Claim 1 should read as:

1. **(Currently Amended)** An aqueous formulation consisting essentially of, on a gram per 100 ml (reported as %) basis: 1-2 % 2,6-diisopropylphenol; water; and up to 15% excipients, wherein said excipients consist essentially of ~~between about 2% to and about 6%~~ polyethylene glycol (PEG), from ~~about~~ 5% to ~~about~~ 9% poloxamer 188, and optionally, one or more pH modifiers, stabilizers, or tonicity modifiers, and wherein said formulation is an aqueous solution including less than 1% lipids and being clear to the naked eye.

4. In claim 20, line 1 after "20." Delete "(Previously Presented)" and insert---(Currently amended)---.
5. In claim 20, line 2, after "is", delete about.
6. In claim 23, line 1 after "23." Delete "(Previously Presented)" and insert---(Currently amended)---.
7. In claim 23, line 2, after "is", delete less than 5% and insert ---2% to 5%---.
8. In claim 25, line 1 after "25." Delete "(Previously Presented)" and insert---(Currently amended)---.
9. In claim 72, last line, after "of", delete about.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 9/21/08 is received and acknowledged.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHIRLEY V. GEMBEH whose telephone number is (571)272-8504. The examiner can normally be reached on 8:30 -5:00, Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL HARTLEY can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael G. Hartley/  
Supervisory Patent Examiner, Art Unit 1618

/S. V. G./  
Examiner, Art Unit 1618  
10/22/08

<b>Application Number</b> 	Application/Control No.	Applicant(s)/Patent under Reexamination
	10/766,631 Examiner SHIRLEY V. GEMBEH	ZHANG ET AL. Art Unit 1618